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 CITY AND COUNTY OF SAN FRANCISCO;  
 WILLIAM HUGHEN; KEVIN BIRMINGHAM; NATALIA FOSSI  
 (ERRONEOUSLY SUED AS NATALIA KWAITKOWSKA);  
 MAURICIO HERNANDEZ; and JOE DUFFY

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

PATRICK GALLAGHER,

Plaintiff,

vs.

CITY AND COUNTY OF SAN  
 FRANCISCO, BERNARD CURRAN,  
 RODRIGO SANTOS, WILLIAM HUGHEN,  
 KEVIN BIRMINGHAM, NATALIA  
 KWAITKOWSKA, AND JOE DUFFY,

Defendant.

Case No. 23-cv-03579-SI (JCS)

**REQUEST FOR JUDICIAL NOTICE IN  
 SUPPORT OF DEFENDANTS CITY AND  
 COUNTY OF SAN FRANCISCO, WILLIAM  
 HUGHEN, KEVIN BIRMINGHAM, NATALIA  
 FOSSI, MAURICIO HERNANDEZ AND JOE  
 DUFFY'S MOTION FOR SUMMARY  
 JUDGMENT (Fed. R. Civ. P. 56)**

Hearing Date: December 5, 2025  
 Time: 10:00 a.m.  
 Place: Videoconference

Trial Date: February 17, 2026

Pursuant to Federal Rule of Evidence 201 and supporting case law, Defendants City and County of San Francisco, William Huguen, Kevin Birmingham, Natalia Fossi, Mauricio Hernandez, and Joe Duffy (“Defendants”) request that the Court take judicial notice of the following exhibits to the Declaration of Hunter W. Sims III in support of Defendants’ Motion for Summary Judgment:

- Exhibit P: Plaintiff Patrick Gallagher’s Request for Variance Hearing;
- Exhibit Q: San Francisco Planning Department’s Variance Decision dated July 27, 2022;
- Exhibit R: Plaintiff Patrick Gallagher’s Appeal of Variance Decision;
- Exhibit S: The San Francisco Board of Appeal’s Denial of Plaintiff Patrick Gallagher’s Appeal of Variance Decision; and
- Exhibit T: The Criminal Complaint in the matter of *USA v. Curran et. al.*, Case No. 3:21-mj-713315-MAG.

Courts may take judicial notice of a fact that is “‘not subject to reasonable dispute,’ i.e., that is ‘generally known’ or ‘can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.’” *Kang v. PayPal Holdings, Inc.*, 620 F. Supp. 3d 884, 895 (N.D. Cal. 2022) (quoting Fed. R. Evid. 201(b)). “[A] court may take judicial notice of ‘matters of public record.’” *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (quoting *Mack v. S. Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986), *abrogated on other grounds by Astoria Fed. Sav. & Loan Ass’n v. Solimino*, 501 U.S. 104 (1991)). Courts regularly take judicial notice of administrative hearing decisions and related documents. *See, e.g., Singh v. Ashcroft*, 393 F.3d 903, 907 (9th Cir. 2004) (taking judicial notice of a Board of Immigration Appeals decision); *Transmission Agency of N. Cal. v. Sierra Pac. Power Co.*, 295 F.3d 918, 924 n.3 (9th Cir. 2002) (taking judicial notice of federal administrative law judge’s published decision); *Nugget Hydroelectric, L.P. v. Pac. Gas & Elec. Co.*, 981 F.2d 429, 435 (9th Cir. 1992) (taking judicial notice of existence of state administrative agency’s published decisions).

Here, the documents Defendants seek judicial notice of are not subject to reasonable dispute. With respect to Exhibits P and R, Defendants only seek judicial notice of 1) the fact that Plaintiff sought a variance and an appeal of the variance decision, and 2) the date those requests were made. Those facts are not reasonably within dispute and are part of the official records of the related

1 administrative hearings. Similarly, Defendants only seek to establish the date the government filed its  
2 criminal complaint against Defendant Curran through Exhibit T. The limited information Defendants  
3 seek to establish through these records is not subject to reasonable dispute and are either part of the  
4 administrative process or are filed documents with this Court.

5 The remainder of the documents Defendants seek judicial notice, Exhibits Q and S, are  
6 determinations made during the administrative appeals process within the City and County of San  
7 Francisco. Accordingly, those documents are also subject to judicial notice. Therefore, Defendants'  
8 Request for Judicial Notice should be granted.

9  
10 Dated: November 7, 2025

11 DAVID CHIU  
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15 HUNTER W. SIMS III  
16 Deputy City Attorney

17 By: /s/ Hunter W. Sims III  
18 HUNTER W. SIMS III

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